

Mortgage Origination Rules Overview

Note: This document was used in support of a live discussion. As such, it does not necessarily express the entirety of that discussion nor the relative emphasis of topics therein.



Consumer Financial
Protection Bureau

Disclaimer

- The Bureau issued the Title XIV mortgage rules in January of 2013 to implement provisions under the Dodd Frank Wall Street Reform and Consumer Protection Act.
- The rules were further clarified and updated by final rules issued in May, July and September, 2013.
- The rules took effect in January 2014.
- This presentation is current as of May 2014. This presentation does not represent legal interpretation, guidance or advice of the Bureau. While efforts have been made to ensure accuracy, this presentation is not a substitute for the rule. Only the rule and its Official Interpretations can provide complete and definitive information regarding requirements. This document does not bind the Bureau and does not create any rights, benefits, or defenses, substantive or procedural, that are enforceable by any party in any manner.

Background

- Bureau finalized amendments to Regulations B, X, and Z that relate to mortgage origination; took effect in January 2014.
 - ⇒ Ability-to-Repay and Qualified Mortgages (1026.32 and 1026.43)
 - ⇒ High-cost Mortgages (HOEPA) (1026.32 and 1026.34)
 - ⇒ New Counseling-Related Requirements (1024.20 and 1026.36)
 - ⇒ Escrows for Higher-priced Mortgage Loans (1026.35)
 - ⇒ New Appraisal Requirements (1002.14 and 1026.35)
 - ⇒ Loan Originators (1026.36)
- A summary of each rule and the rules themselves are available on the Bureau's website at: www.consumerfinance.gov/regulations
- Submit questions to **CFPB_reginquiries@cfpb.gov** or call 202-435-7700

Background

Dodd-Frank Act created the Consumer Financial Protection Bureau

- First Federal agency to have the sole mission of consumer protection
- Prior to CFPB, consumer protection was spread across 7 agencies
- Provided tools to perform our mission
 - Research
 - Policy and Rule-making
 - Consumer engagement and education
 - Supervision and Enforcement (first for non-banks)
- Mortgage Markets is front and center on our agenda
- Understand what functioning, efficient markets are supposed to look like
 - Transparent, Fair with the correct financial incentives

Background

Research, Markets and Regulations (RMR)

- Primary focus is policy making
- Cross functional team
 - Research economists
 - Market experts
 - Regulation attorneys
- Mortgage Markets Team
 - Provide subject matter expertise
 - Provide a lens onto the mortgage markets
 - Provide short-term tactical analysis of data and market trends
- Program Manager role is to lead strategic efforts on mortgage related initiatives

REGULATORY IMPLEMENTATION

Regulatory Implementation

Regulatory Implementation team created to support industry's implementation of the new mortgage rules

- Unprecedented and far-reaching
- Multi-pronged strategy to support implementation
 - Plain English rule summaries
 - Small Entity Compliance Guides
 - Readiness Guides
 - Industry outreach and engagement
- Series of amendments to Official Commentary and where appropriate the rules
 - First addressed technical issues
 - Second addressed QM status (DTI, Temporary Patch, Put-back)

ABILITY-TO-REPAY/ QUALIFIED MORTGAGES

Ability-to-Repay Background

- A 2008 Federal Reserve Board (Board) rule prohibits creditors from making “higher-priced mortgage loans” without assessing a consumer’s ability to repay. That rule provides a presumption of compliance for creditors that follow certain underwriting practices.
- In 2010, the Dodd-Frank Act amended the Truth in Lending Act (TILA) to require creditors to consider a consumer’s ability to repay in all residential mortgage loans. The Act established a presumption of compliance with this requirement for a category of loans called “qualified mortgages.”
- In spring of 2011, the Federal Reserve Board issued a proposed rule under Regulation Z to implement the new requirement. Rulemaking authority transferred to the Consumer Financial Protection Bureau (Bureau) on July 21, 2011.
- The Bureau issued a final rule on January 10, 2013. The rule took effect for applications received on or after January 10, 2014.

Ability-to-Repay/Qualified Mortgages

A creditor shall not make a loan that is a covered transaction unless the creditor makes a reasonable and good faith determination at or before consummation that the consumer will have a reasonable ability to repay the loan according to its terms.

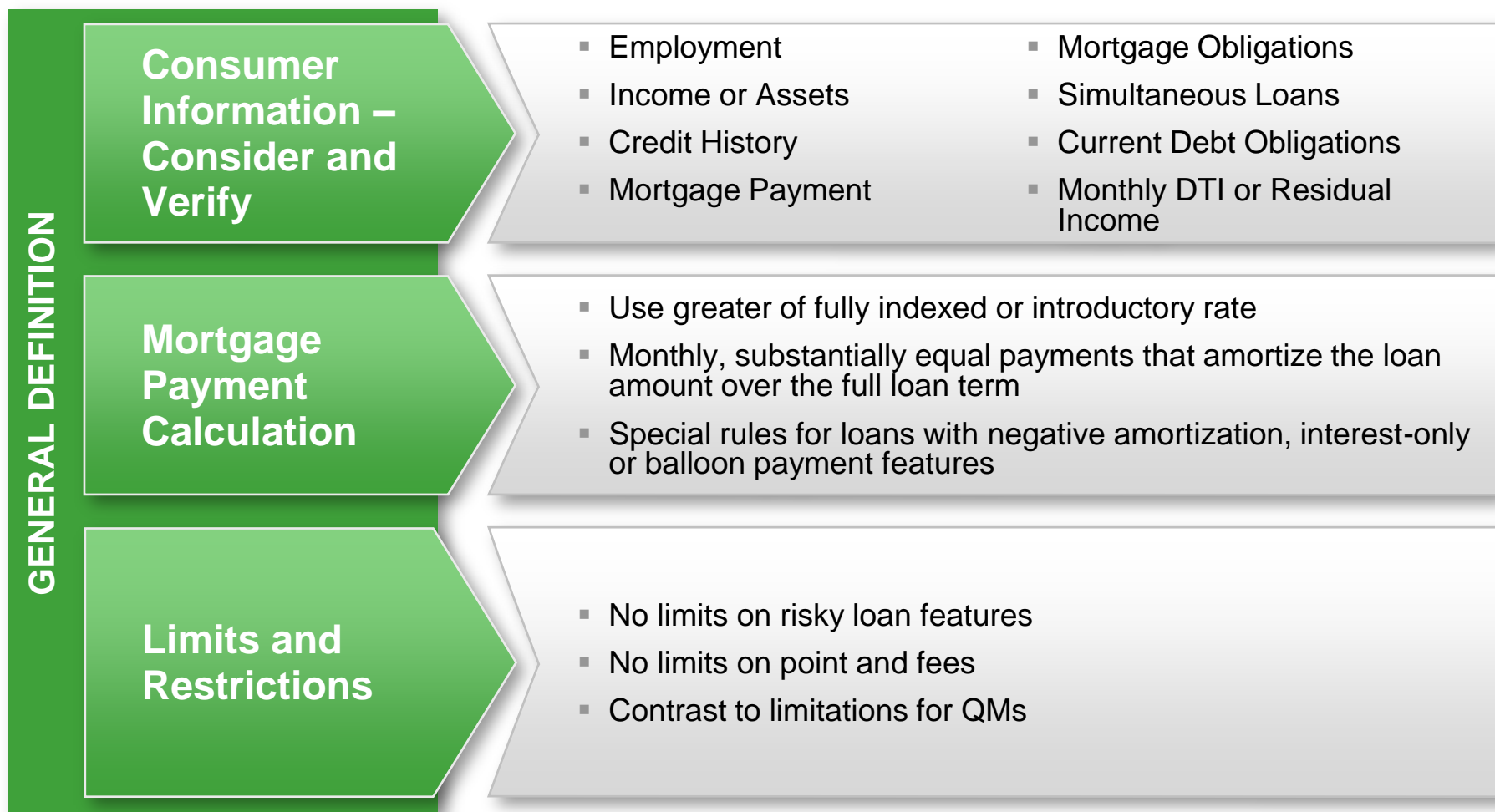
Ability-to-Repay

- Applies broadly to closed-end transactions secured by a dwelling, with the exceptions
 - *HELOCs*
 - *Timeshares*
 - *Reverse Mortgages*
 - *Bridge Loans*
 - *Construction phase of CTP*
 - *Refinance of Non-Standard Loans*

Qualified Mortgages

- General Definition restricts certain loan features, limits on points and fees and imposes certain underwriting requirements
- Safe harbor for loans below the higher-priced mortgage threshold
- Rebuttable presumption for higher-priced loans

Ability to Repay: General Definition



Qualified Mortgage: General Definition

GENERAL DEFINITION

Limits on Loan Features

- No negative amortization or interest only periods
- No balloon payments (except for certain portfolio loans by exempted small creditors)
- Loan terms may not exceed 30 years

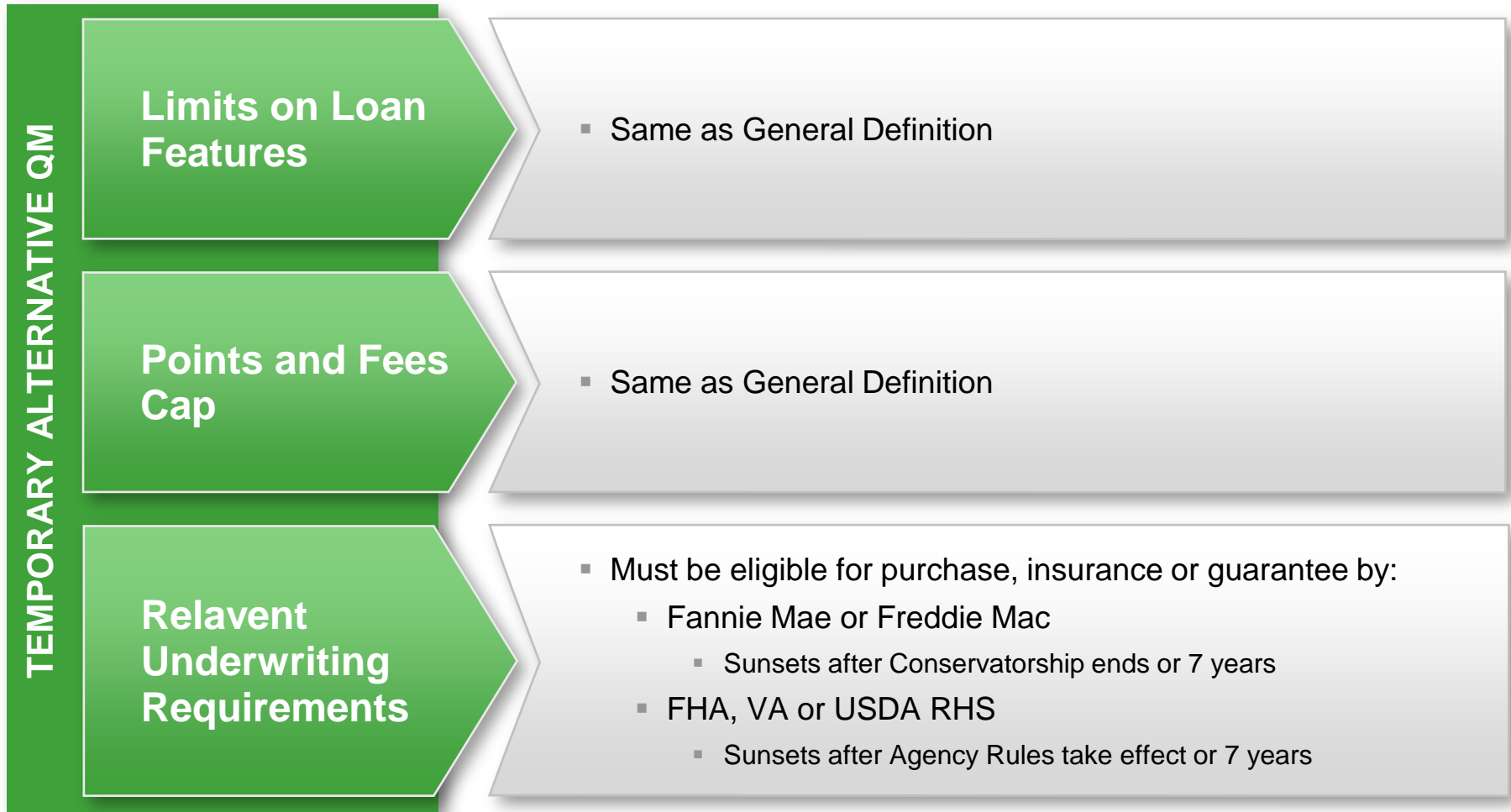
Points and Fees Cap

- Generally 3% of total loan amount
- Higher caps for loan amounts < \$100,000
- Up to two (2) additional bona fide discount points allowed depending on the rate

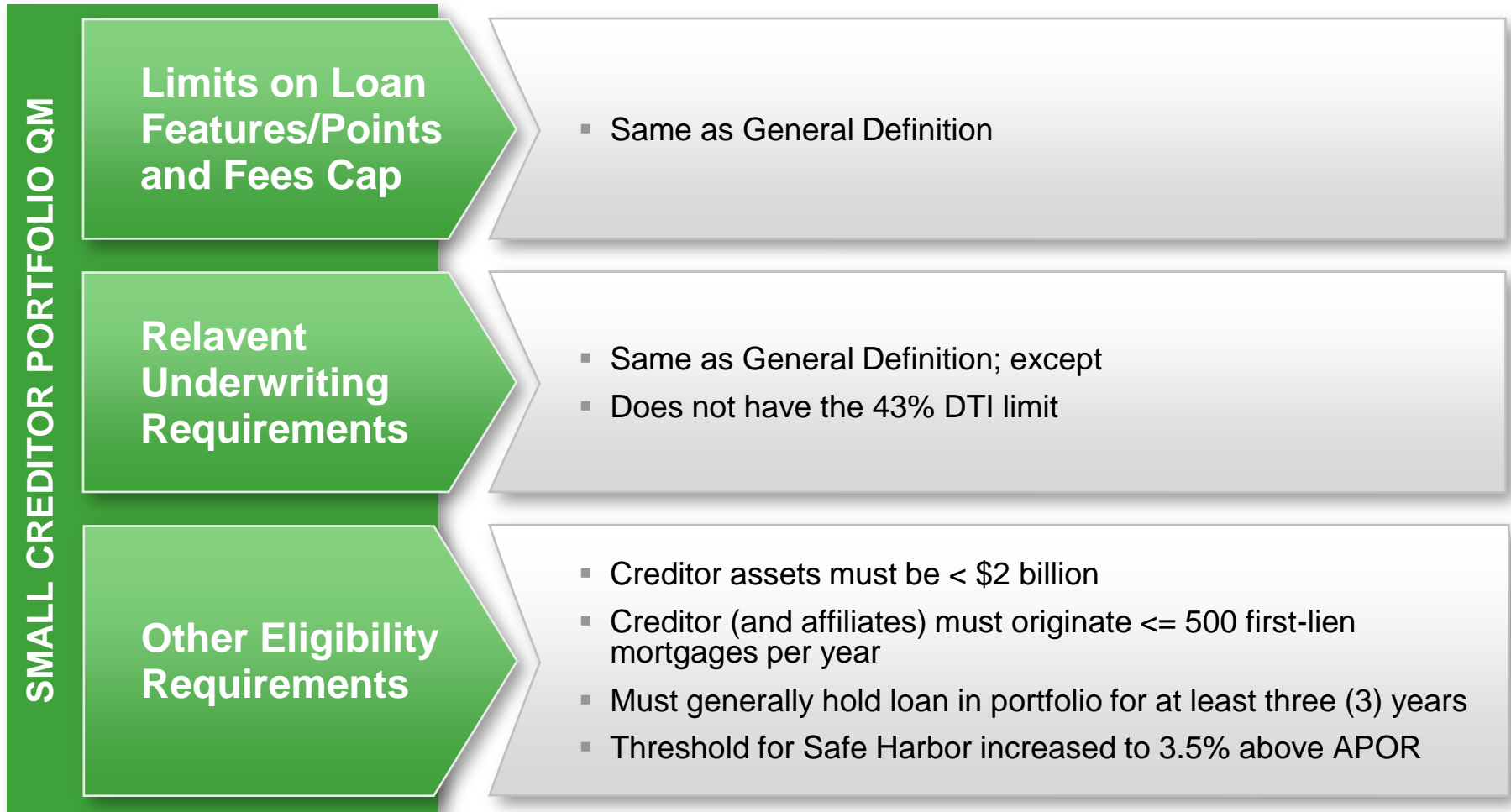
Relevant Underwriting Requirements

- Use maximum rate possible in first five (5) years after first payment, full amortization
- Consider and verify income or assets
- Consider and verify current debt obligations, alimony, and child support
- Monthly debt-to-income ratio cannot exceed 43%

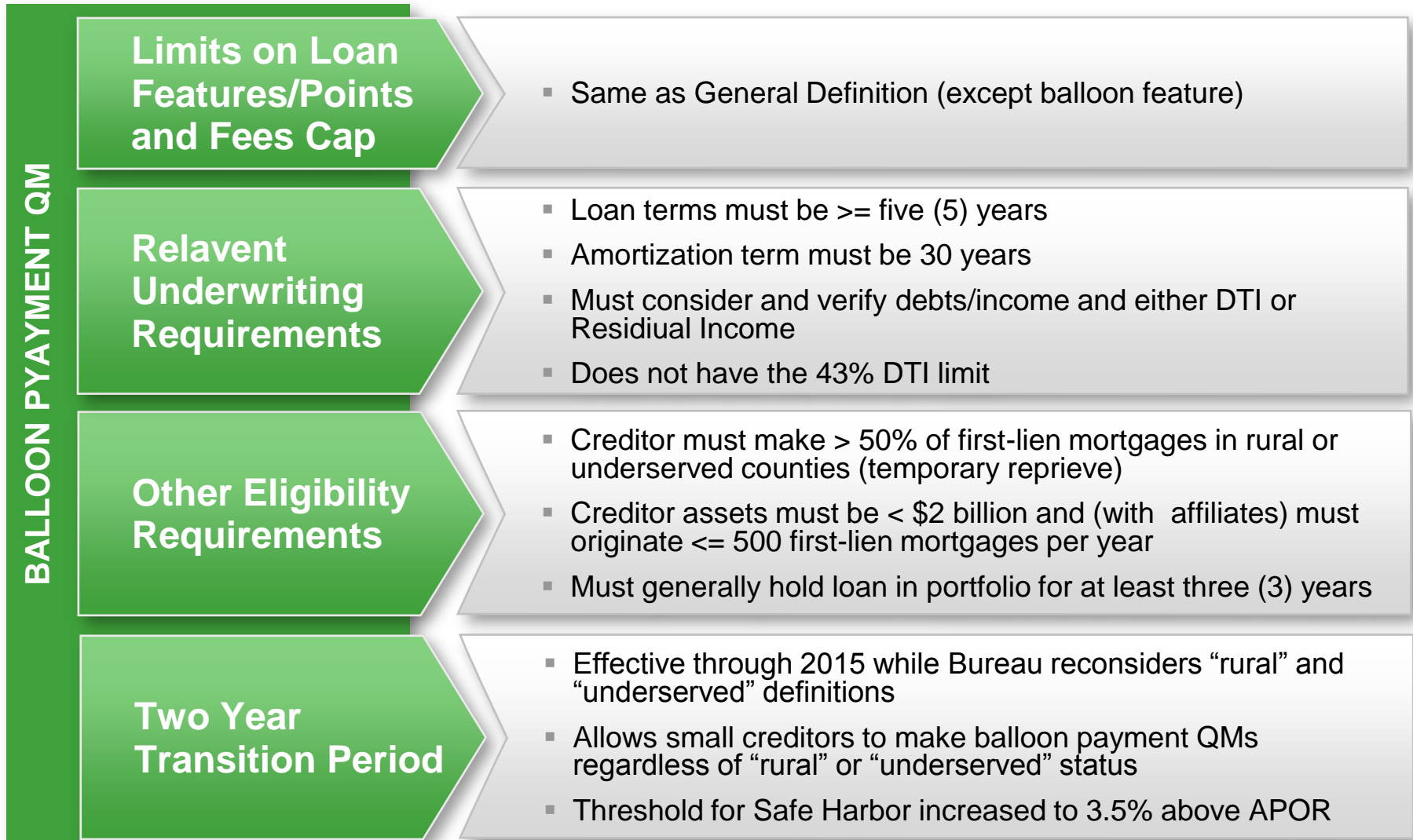
Qualified Mortgage: Temporary Alternative QM



Qualified Mortgage: Small Creditor Portfolio QM



Qualified Mortgage: Balloon Payment QM



Ability-to-Repay/Qualified Mortgages

Presumption of Compliance – The creditor is presumed to have complied with the Ability-to-Repay requirements with respect to the covered transaction if the creditor follows the minimum standards as defined within the rule.

Two levels of presumed compliance are added for Qualified Mortgages:

Safe Harbor

- Loan satisfies the QM Criteria **AND** the APR must be less than:
 - First Liens: APOR + 1.50%
 - Second Liens: APOR + 3.50%

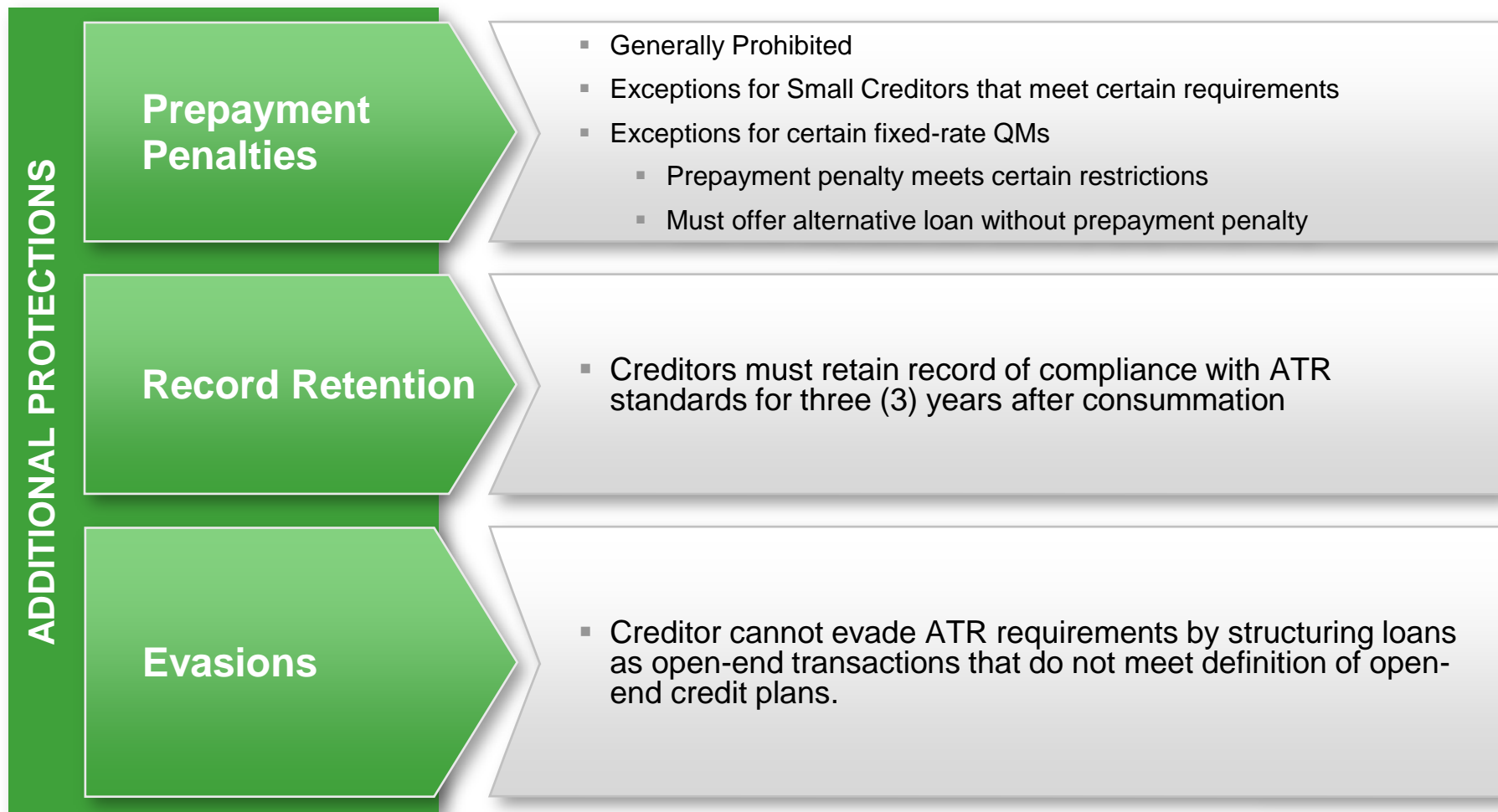
Rebuttable Presumption

- Loan satisfies the QM Criteria **AND** the APR is equal to or greater than:
 - First Liens: APOR + 1.50%
 - Second Liens: APOR + 3.50%
- Rebuttable is limited only to insufficient residual income

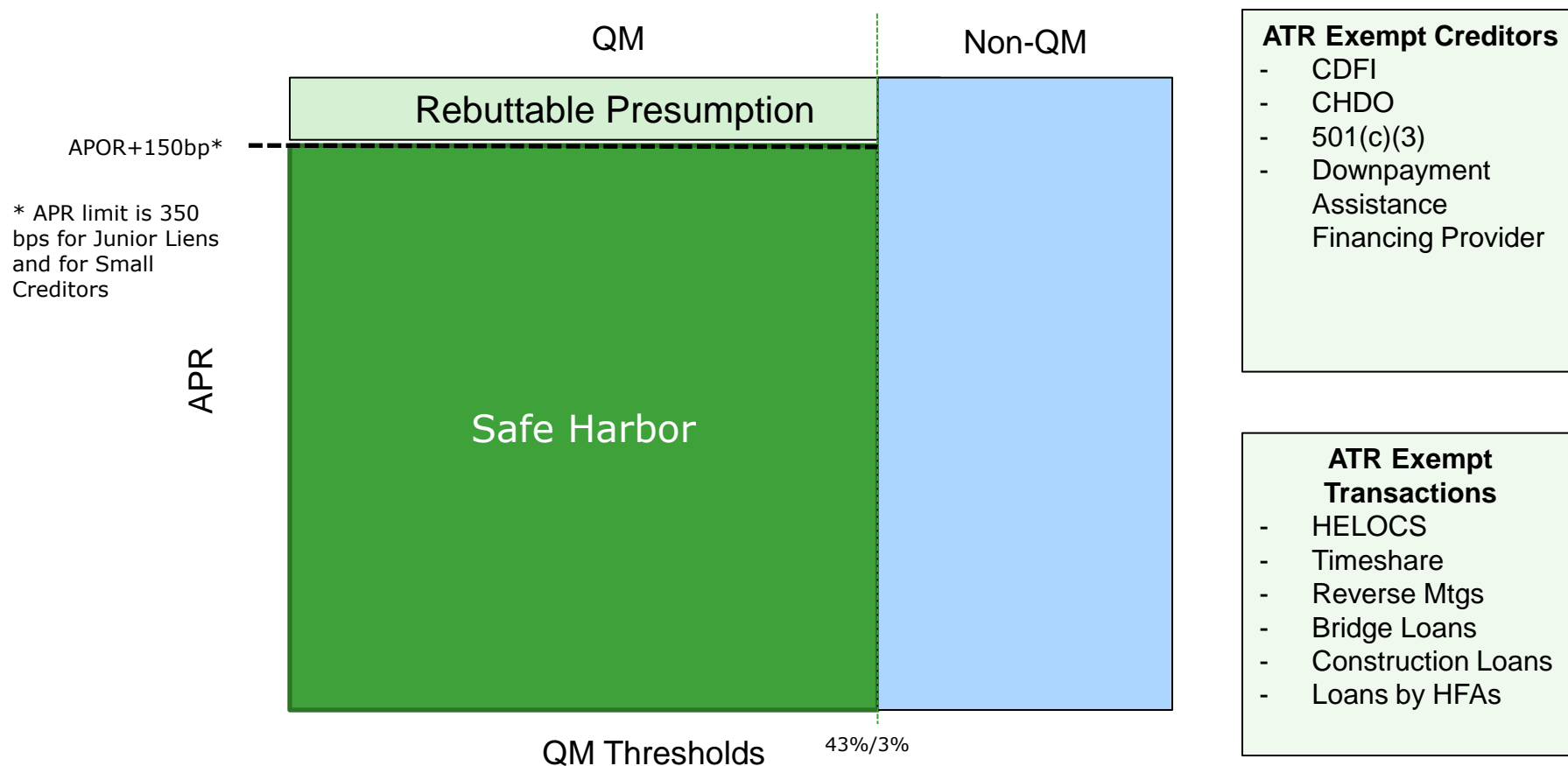
ATR and QM Comparison

Category	ATR Standard	General QM Definition	Temporary QM	Balloon Payment QM
Loan feature limitations	No limitations	No Neg Am, IO, or balloon payments	No Neg Am, IO, or balloon payments	No Neg Am or IO
Loan term limit	No limitations	30 years	30 years	30 years
Points & fees limit	No limitations	3%	3%	3%
Payment Underwriting	Greater of fully indexed or introductory rate	Max rate in first 5 years	As applicable, per GSE or agency requirements	Use amortization schedule that is no longer than 30 years and loan term no less than 5 years
Mortgage-related obligations	Consider and verify	Included in payment underwriting and DTI	As applicable, per GSE or agency requirements	Consider and verify
Income or assets	Consider and verify	Consider and verify	As applicable, per GSE or agency requirements	Consider and verify
Employment status	Consider and verify	Included in DTI	As applicable, per GSE or agency requirements	No specific requirement
Simultaneous loans	Consider and verify	Included in DTI	As applicable, per GSE or agency requirements	No specific requirement
Debt, alimony, child support	Consider and verify	Consider and verify	As applicable, per GSE or agency requirements	Consider and verify
DTI or Residual Income	Consider and verify	DTI ≤ 43 percent	As applicable, per GSE or agency requirements	Consider and verify
Credit History	Consider and verify	Included in DTI	As applicable, per GSE or agency requirements	No specific requirement

Additional Protections



Ability to Repay (ATR) – 1026.43



Paths to QM

- General Definition
- Temporary Definition (GSE, FHA, VA, RHS Eligible)
- Small Creditor